



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

COPY MAILED

SEP 02 2008

In re Application of
Michael HOUGHTON, et al
Application No. 08/441,443
Filed: May 15, 1995
Attorney Docket No. 22300206316

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 26, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 27, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 4.

The terminal disclaimer under 37 CFR 1.137(d), filed October 26, 2007, cannot be accepted since it is not signed by an attorney or agent of record.

37 CFR 1.321(b) states :

An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:

- (1) Be signed:
 - (i) By the applicant, or
 - (ii) If there is an assignee of record of an undivided part interest, by the applicant and such assignee, or
 - (iii) If there is an assignee of record of the entire interest, by such assignee, or
 - (iv) By an attorney or agent of record;
 - (2) Specify the portion of the term of the patent being disclaimed;
 - (3) State the present extent of applicant's or assignee's ownership interest in the patent to be granted; and
 - (4) Be accompanied by the fee set forth in §1.20(d).
 - (c) A terminal disclaimer, when filed to obviate judicially

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

In the event Morrison and Foerster LLP was given power of attorney to prosecute the above-identified application, proper documentation should be submitted with any renewed petition.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building

401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.



Thurman Page
Petitions Examiner
Office of Petitions